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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/717,425 | 11/19/2003 | Darwin Garton | 27769-REI | 1088 |

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07/14/2005

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,425

Applicant(s)

GARTON, DARWIN

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/19/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-7, 10-12, 17-19, 22-24 and 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said intermediate flange" in line 5. There is insufficient antecedent basis for this limitation in the claim. Claim 17 is similarly indefinite.

Claim 10 recites the limitation "said channel" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claim 22 is similarly indefinite.

Claim 12 recites the limitation "said flat outer wall" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claim 24 is similarly indefinite.

Claim 33 recites the limitation "said one outer end portion" in line 1. There is insufficient antecedent basis for this limitation in the claim because the word "outer" was not previously stated when referring to the one end portion.

Claim 34 recites the limitation "said other outer end portion" in line 1. There is insufficient antecedent basis for this limitation in the claim because the word "outer" was not previously stated when referring to the other end portion and the other end portion is spaced from the first coupler and is believed to be located adjacent the inner tank. Therefore, "outer" is not appropriate in describing the other end portion.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 13, 14 and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Haumann.

Haumann discloses a thermally insulated storage tank having a discharge outlet, an inner tank (12) and an outer vessel (14), the discharge outlet comprising: a conduit (46), a flexible annular sealing member or boot (18) (see lines 43-51 of column 2 for compressible length description of flexibility), first and second couplers (42 and 40, respectively, are welded to the inner tank 12 and outer vessel, respectively, see line 59 of column 3).

Re the cup-shaped limitation, "cup-shaped" defines no particular shape as a cup can have almost any shape. The sealing member (conduit 18) has a projection which is cup-shaped insofar as the end of the conduit 18 provides an open-ended construction of generally cylindrical shape.

Re claim 25, the discharge outlet would be considered to be in a side wall by rotating the Fig. 1 configuration 90 degrees so that the outlet is directed toward a side wall.

Re claim 28, the couplers 42 and 40, respectively can include rings 56 and 50, respectively, the rings 50 and 56 are adhered to conduit 46 this sealingly couples the boot to the conduit.

Claims 1-4, 8-16, 20-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiegand.

Wiegand discloses a double wall tank (inner tank 11 and outer vessel 13) and fitting or discharge outlet (25), the discharge outlet comprising: a conduit (metal connector 23), a flexible annular sealing member or boot (sleeve 39) (the sleeve is made of plastic which is relatively flexible in comparison to the metal connector 23), first and second couplers (layer of plastic 45

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and bead of plastic 49, respectively, are adhered to the inner tank 11 and outer vessel 13, respectively, see lines 41-53 of column 3).

Re the cup-shaped limitation, "cup-shaped" defines no particular shape as a cup can have almost any shape. The sealing member (sleeve 39) has a projection which is cup-shaped insofar as the end of the sleeve 39 provides an open ended construction of generally cylindrical shape at its outer end which extends outwardly of the outer vessel 13.

Re claim 25, the discharge outlet would be considered to be in a side wall by rotating the Fig. 1 tank so that its longitudinal axis is vertical.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5, 8-12, 15-17, 20-24 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haumann in view of Koma et al. (Koma).

Haumann discloses the invention except for the sealing member and boot being synthetic resin. Koma teaches a flexible bellows hose made of synthetic resin. It would have been obvious to substitute the synthetic resin material for the metal material of the sealing member in order to make the sealing member easier in a molding operation with less cost when the desired quantity of sealing members is high.

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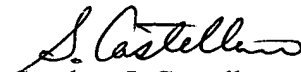
Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reissue declaration appears to be proper. If applicant should revise and amend the application, a supplemental declaration will be required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
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sjc